

1  
2  
3  
4  
5  
6 UNITED STATES DISTRICT COURT  
7 WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

8 DANIEL JOHN WILCKEN,

9 Petitioner,

10 v.

11 RONALD HAYNES,

12 Respondent.

Case No. C18-0279-RSL-MAT

ORDER DIRECTING RESPONDENT  
TO SUPPLEMENT RECORD

13  
14 This is a federal habeas action brought under 28 U.S.C. § 2254. On July 11, 2018, this  
15 Court issued an Order directing respondent to file a reply brief addressing petitioner's claim of  
16 actual innocence which was set forth in petitioner's response to respondent's answer to petitioner's  
17 federal habeas petition. (*See* Dkt. 19.) Included in that Order was a directive that respondent  
18 submit with his reply brief a copy of the transcript of petitioner's trial to assist the Court in  
19 evaluating petitioner's claim of actual innocence, or explain why production of the transcript was  
20 unnecessary. (*See id.* at 2, ¶ 2.)

21 Respondent filed his reply brief on August 8, 2018, but failed to submit with his brief a  
22 copy of the transcript or to explain why production of the transcript was unnecessary. (*See* Dkt.  
23 20.) It appears from a review of respondent's reply brief that a copy of the transcript will, in fact,

ORDER DIRECTING RESPONDENT  
TO SUPPLEMENT RECORD - 1

1 be necessary in order for the Court to properly evaluate petitioner's claim of actual innocence.

2 Accordingly, the Court hereby ORDERS as follows:

3 (1) Respondent shall submit a copy of the transcript of petitioner's trial not later than  
4 **November 2, 2018**. Respondent's answer to petitioner's federal habeas petition (Dkt. 13) is RE-  
5 NOTED on the Court's calendar for consideration on that date.

6 (2) Petitioner's motion for an extension of time to file a reply to respondent's brief  
7 regarding actual innocence (Dkt. 21) is STRICKEN. The Court did not invite petitioner to file a  
8 reply to respondent's brief and, thus, there was no pending deadline to extend. The Court will  
9 nonetheless accept petitioner's brief for filing, and will consider it when evaluating his claim of  
10 actual innocence. However, no further briefing will be accepted.

11 (3) The Clerk is directed to send copies of this Order to petitioner, to counsel for  
12 respondent, and to the Honorable Robert S. Lasnik.

13 DATED this 17th day of October, 2018.

14  
15 

16 Mary Alice Theiler  
17 United States Magistrate Judge  
18  
19  
20  
21  
22  
23